

RECEIVED

DEC 06 2011

GAMBLING COMMISSION
COMM & LEGAL DEPT

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension of the Licenses)
to Conduct Gambling Activities of:) NO. CR 2011-00981
)
Z's Restaurant at Zeppoz)
Pullman, Washington,) **SETTLEMENT ORDER**
)
Licensee.)
_____)

I.

This Settlement Order is entered into between the Washington State Gambling Commission and Z's Restaurant at Zeppoz. The Gambling Commission is represented by Stephanie Happold, Assistant Attorney General, and Melinda Froud, Lead Staff Attorney. The licensee is represented by Wayne Druffel, Owner.

II.

The Washington State Gambling Commission issued Z's Restaurant at Zeppoz, organization number 00-18777, the following licenses:

Number 67-00209, authorizing Class "9" House-Banked Card Room activity; and
Number 05-19347, authorizing Class "A" Punchboard/Pull-Tab activity.

The licenses expire on March 31, 2012, and were issued subject to the licensee's compliance with state gambling laws and regulations.

III.

The Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to the licensee on September 28, 2011. On October 13, 2011, Commission staff received the licensee's request for a hearing

IV.

The following is a summary of the facts alleged, and the violations charged in the Notice of Administrative Charges:

1) The licensee is owned by Palouse Recreation I, LP. In March 2011, the licensee submitted a renewal application and answered "Yes" to a question that asked if the licensee received any new loans or cash/asset contributions over the license year, which individually or collectively exceed a total of \$10,000.

2) As required by rule, the licensee submitted its 2010 financial statements in April 2011, and those records were reviewed by a Commission Special Agent (agent). The statements reflected that the licensee received \$165,094 total in multiple cash contributions from the individual members of Palouse Recreation I, LP. in 2010. In conjunction with their application, the licensee submitted documents and information for only \$79,974 of the total contributions. This supporting documentation listed various capitol contributions, all of which were made more than thirty days prior to the licensee submitting their documentation in April.

3) Upon review, the agent requested that the licensee send information on all capital contributions that were made to the licensee in 2010, specifically including the missing records from the prior submission explaining the difference between the reported \$165,094 in cash contributions, and the \$79,974 documented contributions described above. The licensee then re-submitted the previous packet, as well as additional information regarding the remaining \$85,120 in contributions, that was previously undisclosed. All of those contributions, when finally disclosed, were disclosed late.

4) Prior to this violation, in October 2010, the Director issued Administrative Charges against the licensee for similar violations of WAC 230-06-080 for failure to report cash contributions from the members of Palouse Recreation I, LP in 2009. In December 2010, the licensee settled that violation by agreeing to a three-day suspension with one day vacated and two days served.

5) On September 24, 2008, the licensee received a warning letter for failure to submit updated documents in violation of WAC 230-06-080.

6) The licensee failed to disclose \$165,094 in cash contributions from Palouse Recreation I, LP members on its renewal application within thirty days of receiving the cash contributions, in violation of WAC 230-06-080. This is the licensee's third violation of WAC 230-06-080 since 2008, and demonstrates the licensee's willful disregard for Commission rules.

Therefore, under RCW 9.46.075(1) and (7), and WAC 230-03-085(1), (3), and (7), grounds exist to suspend or revoke Z's Restaurant at Zeppoz's licenses.

RCW 9.46.075(1) and (7) Denying, suspending, or revoking an application, license or permit

The commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein: (The following subsections apply.)

\\

\\

\\

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(7) Makes a misrepresentation of, or fails to disclose, a material fact to the Commission.

WAC 230-03-085(1), (3), and (7) Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

(7) Fails to provide us with any information required under Commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us.

WAC 230-06-080 Report changes to application information and submit updated documents and information.

(1) Licensees must notify us in writing if any information filed with the application changes in any way within thirty days of the change.

(2) Licensees must submit to us any new or updated documents and information, including the following:

(a) Articles of incorporation or bylaws, or any other documents which set out the organizational structure and purposes; and

(b) All oral or written contracts and agreements which relate to gambling activities or alter the organizational structure of the licensee's organization or business activities in Washington; and

(c) All cash or asset contributions, draws from lines of credit, and loans (except those from recognized financial institutions) during any calendar year which by themselves or totaled together are more than ten thousand dollars. Cash or asset contributions do not include donations to licensed charitable or nonprofit organizations; and

(d) Internal Revenue Service tax deductible status of contributions for charitable and nonprofit organizations.

\\

\\

V.

The licensee acknowledges that it has read the Notice of Administrative Charges, and understands the facts contained in it. The licensee has waived its right to a hearing, based on the terms and conditions of this Settlement Order.

1) The licensee agrees that Z's Restaurant at Zeppoz's licenses are hereby suspended for a period of **twenty (20) days**, provided that:

a) **Sixteen (16) days of the suspension shall not be currently served, but shall be deferred** for a period of one year from the date of entry of this Settlement Order, subject to the following: The licensee agrees not to violate any of Washington's gambling statutes or regulations during the one (1) year term. If the licensee violates these statutes or regulations and if the violation is the type that warrants the filing of administrative or criminal charges, then the Director may impose the on sixteen-day suspension of the current gambling license and any subsequently acquired gambling licenses.

b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this agreement, has discretion to determine whether the licensee has violated any term of this agreement. In the event the Director determines that a violation of this section has occurred, he may suspend the licenses issued to the licensee, and any subsequently acquired licenses, for up to sixteen days, by mailing or delivering a Notice of Order of Administrative Charges to the licensee. This suspension shall be in addition to any consequences of the new violation. The licensee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.

c) **Pursuant to RCW 9.46.077, the licensee has chosen to vacate the remaining four (4) days of this suspension by paying a monetary penalty, as follows:**

The licensee may vacate four (4) days of this suspension by paying a monetary penalty of nine-thousand, six hundred and thirty-nine dollars (\$9,639), which represents 50% of the licensee's net gambling receipts for four days, based on information reported by the licensee in its activity reports.

The licensee also agrees to reimburse the Commission for its investigative and administrative costs in the amount of one thousand, five hundred and fifty-four dollars (\$1,554).

The total amount that the licensee agrees to pay to the Commission is eleven thousand, one hundred ninety-three dollars (\$11,193).

d) The total penalty amount of \$11,193 shall be paid in two installments, as follows:

i) The first installment of **five thousand, five hundred ninety-seven dollars (\$5,597)** must be received by Commission staff by **November 23, 2011.**

ii) The second installment of **five thousand, five hundred ninety-six dollars (\$5,596)** must be received by Commission staff by **December 23, 2011.**

e) The signed order and first payment of \$5,597 must be received by Commission staff on or before November 23, 2011. Payment must be mailed to Commission Headquarters at the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division – Fines
P.O. Box 42400
Olympia, WA 98504-2400

or **delivered** (in person or via private courier) to the following address:

Washington State Gambling Commission
4565 7th Avenue SE; Fourth Floor
Attention: Communications and Legal Division – Fines
Lacey, WA 98503

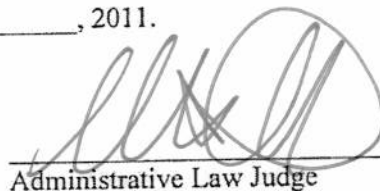
2) If the licensee makes its payment as agreed, this matter will be deemed closed. However, if the licensee fails to timely make its payment, the Director may impose an additional **two (2)** day suspension for late payment. Serving the suspension would not, however, relieve the licensee of its obligation to pay its fine.

3) The licensee shall serve one day of suspension which was deferred in the December 2010 Settlement Order.

The licensee shall to serve the one (1) day suspension as follows:

- The suspension period begins at 8:00 a.m. on Wednesday, November 23, 2011, and runs through 8:00 a.m. on Thursday, November 24, 2011.
- The licensee may resume gambling activities at 8:00 a.m. on Thursday, November 24, 2011.
- During this period of suspension, no gambling activities shall take place at the licensed premises.

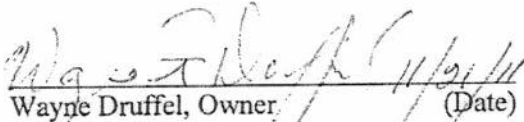
DATED this 2nd day of December, 2011.




Administrative Law Judge


APPROVED FOR ENTRY:

By the signature below, the licensee
understands and accepts the terms
and conditions of this Order.


Wayne Druffel, Owner, (Date)
Z's Restaurant at Zeppoz


Melinda Froud, WSBA #26792
Lead Staff Attorney,
Washington State Gambling Commission

APPROVED AS TO FORM:


Stephanie Happold WSBA #38112
Assistant Attorney General,
Representing the Washington State
Gambling Commission